

3603. **Misbranding of O'Neil's Pure Malt Whiskey, so called. U. S. v. 7 Cases of O'Neil's Pure Malt Whiskey. Default decree of condemnation and forfeiture. Product ordered distributed to a charitable institution.** (F. & D. No. 5667. I. S. No. 1477-h. S. No. C-21.)

On April 8, 1914, the United States attorney for the Eastern District of Michigan, acting upon a report by the Secretary of Agriculture, filed in the District Court of the United States for said district a libel for the seizure and condemnation of 7 cases, more or less, of so-called O'Neil's Pure Malt Whiskey, remaining unsold in the original unbroken packages, at Detroit, Mich., alleging that the product had been shipped on October 31, 1913, and transported from the State of Illinois into the State of Michigan, and charging misbranding in violation of the Food and Drugs Act. Each bottle was labeled: "Absolutely Pure-Unadulterated-Health Giving O'Neil's Pure Malt Whiskey The Secret of Youth and Health \* \* \* the World's Best Medicine An invaluable remedy in all cases of Consumption, 'Grippe', Coughs, Colds, Dyspepsia, Bowel Trouble, Catarrh, and all Bronchial Affections. As a tonic and stimulant for invalids, convalescents and old people it has no equal. It restores lost vitality, quiets the nerves, tones up the entire system and retains the freshness and vigor of youth." (Additional label, in part, wrapped around each bottle.) "As a preventive of Catarrh, O'Neil's Pure Malt Whiskey is very successful \* \* \* It will build you up \* \* \* help to digest your food, add good, solid flesh \* \* \* specific for Malaria. \* \* \* It is a well known fact that as a preventive of the Great White Plague, O'Neil's Pure Malt Whiskey, with its wonderful restorative powers and strength building properties, ranks high as a safeguard against lung troubles \* \* \*." "It is in this great work of preventing consumption—the value of nipping it in the bud in its incipient stages—that O'Neil's Pure Malt Whiskey is making a great record \* \* \* specific for Bowel Troubles, \* \* \* It is the best household remedy not only for stomach and bowel troubles but as a safeguard against the encroachment of all ailments \* \* \* the valuable medical properties \* \* \* in many cases of Indigestion, \* \* \* Stomach Troubles, Consumption, Malaria \* \* \* and all Wasting Diseases \* \* \* For \* \* \* Lung Trouble, O'Neil's Pure Malt Whiskey has no equal \* \* \*."

It was alleged in the libel that the product was misbranded within the meaning and in violation of the act of Congress of June 30, 1906, as amended by the Sherley amendment, approved August 23, 1912, commonly known as the Food and Drugs Act, and in violation of paragraph 1 of section 8 of said act, under the classification of drugs, an examination of the samples of said product by the Bureau of Chemistry of the Department of Agriculture having revealed that it was not a medicinal substance or mixture of substances that could be relied upon for the prevention or treatment of tuberculosis, and said analysis having revealed that the product was of such composition that it was utterly inefficient of itself for the treatment of or for the prevention of tuberculosis or for the prevention of catarrh. It was further alleged in the libel that each of the bottles, by the label thereof, was labeled and printed [branded] so as to mislead and deceive the purchaser thereof, said labeling as aforesaid constituting a violation within the meaning of the act aforesaid as amended.

On September 3, 1914, no claimant having appeared for the property, judgment of condemnation and forfeiture was entered and the distribution of the product to a certain charitable institution in Detroit, after the obliteration of the objectionable medicinal claims on the label and the destruction of the circular accompanying the bottles, was authorized by the court.

D. F. HOUSTON, *Secretary of Agriculture.*

WASHINGTON, D. C., *March 23, 1915.*